

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

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| SAP AMERICA, INC., Plaintiff, v. INVESTPIC, LLC, Defendant. | Civil Action No. 3:16-cv-2689 JURY TRIAL DEMANDED |
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ORIGINAL DECLARATORY JUDGMENT COMPLAINT

Plaintiff SAP America Inc.. (“SAP”), based on personal knowledge as to all acts or events that it has undertaken or witnessed, and upon information and belief as to all others, files this Original Declaratory Judgment Complaint against Defendant InvestPic, LLC (“InvestPic”) and alleges as follows:

NATURE OF THE ACTION

1. This is a declaratory judgment action by Plaintiff SAP seeking a determination that it does not infringe any enforceable claim of U.S. Patent No. 6,349,291 (“the ’291 patent”).

PARTIES

2. Plaintiff SAP America Inc. is a Delaware corporation, with a place of business in Irving, Texas, within the Northern District of Texas.

3. On information and belief, Defendant InvestPic is a Delaware limited liability company, with its principal place of business in Dallas, Texas, within the Northern District of Texas.

4. On information and belief, Defendant InvestPic is the owner by assignment of the ’291 patent, which is entitled “Method and system for analysis, display and dissemination of

financial information using resampled statistical methods.” A true and correct copy of the ’291 patent is attached as Exhibit A.

JURISDICTION

5. This is a complaint for declaratory relief under the patent laws of the United States, Title 35, United States Code. The jurisdiction of this Court is proper under at least 35 U.S.C. § 271 *et seq.*, and 28 U.S.C. §§ 1331, 1338, 1367, and 2201-02.

6. On information and belief, InvestPic claims to own all rights, title, and interest in and to the ’291 patent and claims to possess all rights of recovery. InvestPic also has claimed in writing that SAP has infringed the ’291 patent.

7. This Court has personal jurisdiction over InvestPic in this action. Upon information and belief, InvestPic has a principal place of business in Dallas, Texas, within this District. In addition, upon information and belief, InvestPic has conducted business in Texas and in this District pertaining to the ’291 patent. Upon information and belief, InvestPic has conducted business in Texas and in this District related to the licensing or enforcement of the ’291 patent.

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1391(c) because, among other reasons, InvestPic is subject to personal jurisdiction in this judicial district, InvestPic has conducted business in this District, or because a substantial part of the events or omissions giving rise to the claims herein occurred in this District.

COUNT I **DECLARATION REGARDING NON-INFRINGEMENT**

9. SAP incorporates and realleges the foregoing paragraphs.

10. InvestPic, through counsel, has alleged that “SAP America is selling, offering to sell, using and making infringing articles, including Enterprise GRC, and Access Risk Management and other similar products,” which are allegedly “covered by multiple claims of the

'291 patent. *See* September 9, 2016 Letter from M.Shore to W.McDermott (attached as Exhibit B). In the same communication, InvestPic, through counsel, provided “formal notice to SAP America, Inc. regarding the existence of the '291 patent and InvestPic’s contention that SAP America, Inc.’s activities infringe the '291 patent.” *Id.*

11. In addition, on September 20, 2016, InvestPic, through counsel, threatened SAP with an imminent lawsuit regarding the '291 patent and InvestPic’s allegations of infringement “to be filed in Delaware next week.” *See* September 20, 2016 Email from M.Shore to S.Pandya (attached as Exhibit C). In that same communication, InvestPic, through counsel, recommended defense counsel to SAP, suggested such a defense could cost “millions in fees,” and suggested that the '291 patent is “clearly infringed” by SAP.

12. Based on InvestPic’s allegations of infringement of the '291 patent by SAP, an actual controversy has arisen and now exists between the parties as to whether SAP infringes the '291 patent.

13. SAP does not infringe and has not infringed, under any theory of infringement (including directly (whether individually or jointly), indirectly (whether contributorily or by inducement)), and/or under the doctrine of equivalents, any enforceable claim of the '291 patent.

14. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, SAP requests a declaration by the Court that it does not infringe and has not infringed, under any theory of infringement (including directly (whether individually or jointly) or indirectly (whether contributorily or by inducement)), any enforceable claim of the '291 patent.

JURY DEMAND

15. SAP hereby demands trial by jury on all issues.

PRAYER FOR RELIEF

WHEREFORE, SAP asks this Court to enter judgment in SAP's favor and against InvestPic by granting the following relief:

a) a declaration that SAP does not infringe and has not infringed, under any theory of infringement (including directly (whether individually or jointly) or indirectly (whether contributorily or by inducement)), any enforceable claim of the '291 patent;

b) a permanent injunction restraining InvestPic, and its respective officers, agents, servants, employees, attorneys, and any other persons acting on their behalf or in concert with them, from charging or threatening, orally or in writing, that the '291 patent has been infringed by SAP under any subsection of 35 U.S.C. § 271; and

c) an award to SAP of its reasonable attorneys' fees, costs, and all interest (including without limitation any attorney fees awards based upon 35 U.S.C. § 285), and any such other and further relief as the Court finds just and proper.

Dated: September 20, 2016

Respectfully submitted,

By: /s/ Michael A. Bittner

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